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B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *February 3, 1914.*

2812. Misbranding and alleged adulteration of wine. U. S. v. Ten Cases of Wine. Decree of condemnation by consent. Product released on bond. (F. & D. No. 3157. S. No. 1149.)

On November 6, 1911, the United States Attorney for the Eastern District of Washington, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district libels for the seizure and condemnation of five cases of so-called Sauterne and five cases of so-called Moselle remaining unsold in the original unbroken packages and in the possession of the Spokane Table Supply Co., Spokane, Wash., alleging that the product had been shipped on or about June 22, 1911, from the State of California into the State of Washington, and charging adulteration and misbranding in violation of the Food and Drugs Act. The Sauterne was labeled: (On cases) "California Sparkling Sauterne. Glass with care. This side up. Guaranteed under the Pure Food and Drugs Act June 30, 1906. A. Finkes Widow, San Francisco, Spokane Table Supply Co., Spokane, Wash. 24 small bottles." (On bottles) "Sparkling Sauterne. Sparkling Sauterne, Product of California. F. C. Marne and Co., Brand. A. Finkes Widow San Francisco." The Moselle was labeled: (On cases) "California Sparkling Moselle. Glass with care. This side up. Guaranteed under the Pure Food and Drugs Act June 30, 1906. A. Finkes Widow, San Francisco. Spokane Table Supply Co. Spokane, Wash. 24 small bottles." (On bottles) "Sparkling Moselle. Sparkling Moselle Product of California. F. C. Marne and Co. Brand. A. Finkes Widow San Francisco."

Adulteration and misbranding of these products was alleged in the libels for the reason that the said sparkling Sauterne and the said sparkling Moselle were not wines of those varieties but were artificially carbonated, differing from sparkling Sauterne and sparkling Moselle, which are foreign wines of distinct characters, and the labeling of said Sauterne and said Moselle was misleading and false so as to deceive and mislead the purchaser and so as to offer the contents for sale under the names of other articles.

On June 30, 1913, A. Finkes Widow Co., a copartnership, having theretofore filed its exceptions and objections to the libels and the same having been overruled by the court, and on February 18, 1913, said claimant having agreed by stipulation that decrees might be entered, judgments of condemnation and forfeiture were entered, the court finding the products misbranded but not adulterated, and it was directed that the products should be sold by the United States marshal unless said claimant pay all the costs of the proceedings and execute bond in conformity with section 10 of the act, in which case the products should be delivered and restored to said claimant by the United States marshal.

On August 25, 1913, the required bonds were furnished and the costs were paid by said claimant. While it was alleged in the libels that the products were adulterated, in reporting the case to the United States Attorney for action no charge of adulteration was made.

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2813. Misbranding of rice. U. S. v. 110 Cases of Rice. Product released on bond by order of court. (F. & D. No. 3161. S. No. 1152.)

On November 3, 1911, the United States Attorney for the Southern District of West Virginia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 110 cases, each containing 100 one-pound cartons of rice, remaining unsold in the original unbroken packages and in possession of Lewis, Hubbard & Co., Charleston,

W. Va., alleging that the product had been shipped from the State of Ohio into the State of West Virginia, and charging misbranding in violation of the Food and Drugs Act. The product was labeled: "Kanawha brand selected rice,—Lewis, Hubbard & Company, distributors, Charleston, W. Va.,—Insist on having Kanawha brand rice,—The purchaser of this package insures to the consumer an ever uniform quality,—Kanawha rice."

Misbranding of the product was alleged in the libel for the reason that the said cases did not contain rice as the label and markings thereon would indicate, but contained a product that was coated with glucose and talc, and said branding and markings on the cases were misleading and false so as to deceive and mislead the purchaser.

On December 11, 1911, the said Lewis, Hubbard & Co., claimant, having paid the costs of the proceedings and executed bond in the sum of \$1,000 in conformity with section 10 of the act, it was ordered by the court that the product be delivered to said claimant and that the proceeding be dismissed.

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2814. Misbranding of lithia water. U. S. v. S. A. Scammon. Plea of nolo contendere. Fine, \$15. (F. & D. No. 3166. I. S. No. 19921-c.)

On March 19, 1912, the United States Attorney for the District of New Hampshire acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against S. A. Scammon, Temple, N. H., alleging shipment by said defendant, in violation of the Food and Drugs Act, on June 8, 1911, from the State of New Hampshire into the State of Massachusetts, of a quantity of lithia water which was misbranded. The product was labeled: "Pack Monadnock Lithia Spring Water, the most wonderful natural Lithia Spring water now known in the world as the analysis of Prof. Thomas Heys given below will show: Bi Carbonate of Lithium 15.408 Bi Carbonate of Soda 5.262 Bi Carbonate of Iron .304 Carbonate of Lime .770 Carbonate of Magnesia .294 Sulphate of Potassium .511 Chloride of Potassium .180 Chloride of Sodium .340 Bromide of Sodium traces Silica and Aluminum .980 Free and combined Ammonia .008 24.057 recommended for Gout, Dyspepsia, Rheumatism, Eczema, Sugar Diabetes, Bright's Disease, Gall Stones; also reduces temperature in all fevers; and all diseases of the kidneys, asthma, etc. as beautifier of the complexion it has no equal. Directions: To receive the most benefit it should be used freely, can be used warm with equally good results."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results: Total solids at 110° C. (mg per liter), 62; total solids at 180° C. (mg per liter), 60; no weighable amount of lithium found in 2,000 cc; spectroscopic test shows less than 0.01 mg per liter of lithium. Label claims 22.61 mg per liter of lithium. Sanitary analysis: Free ammonia, less than 0.001 mg per liter; albuminoid ammonia (mg per liter) 0.004; nitrogen as nitrites, none; nitrogen as nitrates (mg per liter), 0.02; chlorine (mg per liter), 4.00. Misbranding of the product was alleged in the information for the reason that it was labeled as set forth above, which statement set forth and published on the label was not true, in that the product or contents of said package, bottle, or receptacle, to wit, said so-called lithia water, did not contain enough lithium to warrant it to be classified as a lithia water and did contain only an unweighable spectroscopic trace of lithium. Misbranding was alleged for the further reason that the label aforesaid was false and misleading, the package being labeled "Bi Carbonate of Lithium 15.408 grains per Imperial Gallon," indicating that it contained 22.61 milligrams per liter of lithium, when in fact only an unweighable spectroscopic trace of lithium was present.

On May 1, 1913, the defendant entered a plea of nolo contendere to the information, and the court imposed a fine of \$15.

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